

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
August 12, 2021

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Thursday, August 12, 2021 in the fourth-floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 1:15 PM.

Board Members Present

Interim Vice-Chair Jeanette T. Jurasek
Secretary Frederick G. Floss
Director Andrew A. SanFilippo
Honorable Byron W. Brown, City of Buffalo Mayor (proxy Estrich)
Honorable Mark C. Poloncarz, Erie County Executive (proxy Swanekamp)

Board Member(s) Excused

Chair R. Nils Olsen, Jr.

Staff Present

Executive Director Jeanette M. Robe
Principal Analyst/Media Contact Bryce E. Link
Senior Analyst II/Manager of Technology Nathan D. Miller
Administrative Assistant Nikita M. Fortune
Comptroller Claire A. Waldron

Additionally Present

Mr. Richard A. Grimm, III, Esq., Magavern Magavern & Grimm LLP

Opening Remarks

Chair Pro Tem Floss welcomed everyone to the August Board meeting, thanked all that were in attendance, and reviewed the logistics of the meeting and the agenda.

Chair Pro Tem Floss stated the agenda included a review of two Buffalo City School District (“BCSD”) labor agreements. He shared that the Governance Committee met earlier and approved a recommendation that the full Board approve various BFSA policies, procedures and annually filed reports.

Chair Pro Tem Floss stated that the annual Board of Directors self-evaluation form has been approved by the Governance Committee and provided to each Director. This evaluation should be completed and submitted confidentially to staff. The results will be compiled and reviewed at the next Governance Committee meeting scheduled for September 27, 2021. The annual Code of Ethics compliance certification was provided to the Directors for signature and submission to BFSA staff. He noted the self-evaluation and signed Code of Ethics page are to be returned to the BFSA staff using the two separate self-addressed stamped envelopes provided.

Roll Call of the Directors

Chair Pro Tem Floss called a roll of Directors. He verified that a quorum was present. The meeting commenced.

City of Buffalo Commissioner of Finance, Administration, Policy, and Urban Affairs, Ms. Donna Estrich, represented Mayor Byron W. Brown in accordance with Subdivision 1 of §3853 of the BFSa Act.

Erie County Deputy Budget Director, Benjamin Swanekamp, represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSa Act.

The BFSa Act, §3853, subdivision 1 states: "...The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City or County, shall be entitled to designate a single representative to attend, in his or her place, meetings of the authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the single designee...."

Approval of the Minutes

Chair Pro Tem Floss introduced Resolution No. 21-08: "Approving Minutes and Resolutions from June 8, 2021 and June 21, 2021."

Director SanFilippo made a motion to approve the minutes.
Interim Vice-Chair Jurasek seconded the motion.

The Board voted 5-0 to approve Resolution No. 21-08.

Buffalo City School District ("BCSD")

Buffalo Association of Substitute Administrators ("BASA") Proposed Labor Agreement

Chair Pro Tem Floss advanced the agenda to review the labor agreement between BCSD and the BASA and to consider Superintendent Cash's request for an extension to submit a revised financial plan. Mr. Nathan Miller began his presentation providing the following overview of the new collective bargaining unit:

- Covers all persons employed by the District as a per diem Substitute Administrator
 - Currently 26 retired former BCSD Teachers and/or Administrators
 - 20 part-time FY 2021-22 employees budgeted
 - Receive healthcare benefits as defined by the CBA under which they retired
 - It is estimated that 95% is funded through the General Fund
- Previously represented by the Buffalo Council of Supervisors and Administrators
 - CBA approved on 9/20/17 (expired 9/1/20) did not include increases for Substitute Administrators
- Proposed CBA would be effective at ratification through 6/30/2023
 - The new CBA constitutes the entire and complete record of the current binding agreements between the District and the BASA
- Buffalo Board of Education to consider approving the CBA on 8/18/21

Per Diem Increases

- The 8/26/04 MOU between the District and the BCSA established a \$200 per diem for Substitute Principals and a \$175 per diem for Substitute Assistant Principals
- The 8/11/11 MOU amended per diem compensation to \$175 per diem regardless of job title
- The per diem rates have not increased since 8/26/04
- Effective July 1, 2021 the per diem rate will increase to \$215 for all substitute administrators, a 22.86% increase
- Effective July 1, 2022 the per diem rate will increase to \$220 for all substitute administrators, a 2.3% increase

Incentive Bonus

- The CBA establishes an incentive bonus for employees who work at least fifty (50) days within a semester as a Substitute Administrator
 - September to January and February to June
 - Employees will be compensated with a \$1,000 payment/semester
 - Days worked in any other capacity (e.g., as a Substitute Teacher) do not count toward the incentive
 - Unit members may earn up to two incentives per year

Chair Pro Tem Floss asked if this bonus would have an impact on retired administrators' pensions. Mr. Miller responded there would be no impact.

Net Cost

- The District estimates the CBA's FY 2021-22 incremental cost will be \$215,965 All Funds and \$205,167 in the General Fund
- The impact over the 2022-2025 Financial Plan is estimated at \$932,740 All Funds and \$886,104 in the General Fund
- The CBA does not include any cost saving measures
 - This unit does not receive active employee healthcare
- The District has identified sufficient funding to address the increase in labor costs

Chair Pro Tem Floss asked the number of substitutes used by the District per year. Mr. Miller stated the average is 20 substitutes per year; however, the numbers were disrupted by the COVID-19 pandemic.

Transportation Aides of Buffalo ("TAB") Collective Bargaining Agreement

Hearing no additional questions or comments Mr. Miller began his review of the second BCSD labor agreement submitted to the Board with the following overview:

- CBA expired 6/30/21
- Proposed CBA will be effective 7/1/21 through 6/30/24
- Covers all persons employed by the District as bus aides
 - 227 current part-time; 370 budgeted for FY 2021-22
 - Estimated to be 95% funded through the General Fund
 - Approximately 43.5% of TAB personnel costs are reimbursed via NYS Transportation Aid (following fiscal year) because approximately half of the aides assist with Special Education services
- Buffalo Board of Education to consider approving the CBA on 8/18/21

Chair Pro Tem Floss asked if the anticipated number of 370 bus aides accounts for COVID-19 related distancing requirements. Mr. Miller stated the number is based on a traditional school year model.

Interim Vice-Chair Jurasek asked what caused the surplus the District reported for FY 2020-21. Ms. Robe responded that transportation costs were a main driver of the surplus and noted there is a one-year lag on reimbursement. Mr. Miller stated that there were a multitude of areas where budgetary savings occurred including employee compensation and employee benefits. Transportation expenditures were approximately 50% of budget as well at approximately \$29.0M. Director SanFilippo noted an increase in revenue from taxes and foundation aid also contribute to the District's surplus.

Mr. Geoffrey Pritchard, District CFO, indicated there are several factors that contribute to the District's projected surplus for FY 2020-21. He then stated when the March 31st quarterly report was submitted, there was an overall projected savings in expenditures of \$67.0M, of which \$29.0M was related to transportation costs. Mr. Miller noted that this was a budgetary surplus. The projected operating surplus was smaller at \$14.5M.

Wage Increases and Bonuses

Mr. Miller continued his presentation of the TAB contract terms:

- Reduces the total number of salary steps from 4 to 3; steps 1 and 2 of the expired CBA were combined
- Salary steps increase annually by 5.0% to 6.3% in the last two years
- The CBA establishes a one-time, \$100 incentive bonus for employees who work all 60 days of the 2021 summer school program
- The District indicated certain language would be clarified with respect to the perfect attendance bonus and how much would be paid out per step
 - BFSA recommends this occur as soon as possible

Net Costs

- The District estimates the CBA's FY 2021-22 incremental cost will be \$772,385 (AF) and \$733,766 (GF)
- The impact over the 2022-2025 Financial Plan is estimated at \$3,676,812 (AF) and \$3,492,971 (GF)
 - The partial reimbursement via NYS Transportation aid is factored in (FYs 2023 – 2025 of \$1,562,450 combined)
- The CBA does not include any cost-saving measures

Labor Agreements' Funding

Mr. Miller noted an additional labor contract impacts the District for the CFY:

- On 6/21/21, BFSA reviewed a successor agreement between the BCSD and BEST, representing the District's teacher aides/teaching assistants
 - On 7/16/21, a letter was submitted to BFSA which identified funding to address the cumulative impact of the three labor agreements
- The combined net cost for all three contracts (BEST, BASA, TAB) over the financial plan is \$26.9M which are funded in out years one through three

- The District has not yet modified the FY 2021-22 Adopted Budget and FY 2022-2025 Adopted Financial Plan to include these new costs and savings FY 2021-22 is balanced. The \$5.8M net cost of all three labor agreements is currently built into the Adopted Budget. The District will be required to perform budget transfers of approximately \$5.0M out of the Reserve Contingency to remain balanced.
- FY 2024-25 requires \$3.0M in available Reserve Contingency along with approximately \$2.2M in fund balance to fully fund the labor agreements.

Summary

Hearing no additional questions or comments Ms. Robe provided the following summary:

- The Buffalo Association of Substitute Administrators is a new collective bargaining unit
 - The CBA provides terms through 6/30/23
 - The CBA increases the per diem compensation; the rate has not increased since August 26, 2004
- The Transportation Aides of Buffalo represent the District's Bus Aides
 - The Successor Agreement brings the labor agreement terms current through 6/30/24
 - The labor contract increases hourly compensation and increases the number of service years employees need to advance from step one to step two, as well as consolidates the number of steps
- The District has demonstrated the ability to pay for the combined labor agreements' costs
 - The District's analysis shows a use of \$2.5 M in fund balance in FY 2024-25 to pay for a portion of the incremental labor costs
 - This is indicative of an operational imbalance and is unsustainable
 - Current federal funding awarded as associated with the coronavirus pandemic is not available beyond FY 2023-24
 - While the amount overall is not financially significant, it should be taken into consideration in evaluating affordability for future labor contracts

Recommendation

- The District indicated certain language in TAB's Successor Agreement would be clarified with respect to the perfect attendance bonus and how much would be paid out per step
 - BFSA recommends this occur as soon as possible
- The BFSA Board of Directors previously required the submission of a modified financial plan to solidify the BEST Successor Agreement's funding plan
 - BFSA recommends that the modified Financial Plan include the Buffalo Association of Substitute Administrators and the Transportation Aides of Buffalo Collective Bargaining Agreements' budgetary impacts as well

Chair Pro Tem Floss asked for a motion to approve the BFSA reports on the District's BASA and TAB labor contracts and for the reports to be submitted to the Board of Education for their consideration.

Interim Vice Chair Jurasek made the motion as stated.

Director SanFilippo seconded the motion.

The Board voted 5 to 0 to approve.

Review and Consideration of Superintendent's Request to Extend District's submission of a modified Financial Plan to November 30, 2021

Chair Pro Tem Floss advanced the agenda for the Board to consider the request of Superintendent Cash to extend the submission of the District's modified Financial Plan to November 30, 2021 due to the following:

- Additional labor agreements were then anticipated
- Continued uncertainty regarding the status of Westminster Community Charter School and Enterprise Charter School
- The continued revisions to planned spending of the federal stimulus awards

The later date of November will provide the District sufficient time to address these outstanding items.

Chair Pro Tem Floss asked for a motion to approve the request of Superintendent Cash.

Director SanFilippo made the motion as stated.

Interim Vice-Chair Jurasek seconded the motion.

Chair Pro Tem Floss noted the plan should include the financial impact and the extension may be null if a significant financial event occurs prior to November 30, 2021.

The Board voted 5 to 0 to approve.

Interim Vice Chair asked for clarification on the due date on the BFSA's report to the state. Ms. Robe stated there is no requirement to report to Albany if an extension for submission is granted by the Board.

BFSA Business

Chair Pro Tem Floss advanced the agenda to BFSA business and stated the Governance Committee met earlier and voted to recommend full Board approval of various procedures and reports and requested a motion to consider these items in one action and approve the following resolutions:

Bylaws Res 21-09
Code of Ethics Res No. 21-10
Mission Statement Res No. 21-11
Investment Guidelines Res No. 21-12
Property Disposal Guidelines Res No. 22-13
Use of Discretionary Funds Policy Res No. 21-14

Whistleblower Policy Res No. 21-15
Lobbying Policy Res No. 21-16
Procurement Guidelines No. 21-17
Procurement Report Res No. 21-18
Prompt Payment Policy Res No. 21-19
Prompt Payment Report Res No. 21-20
Conflicts of Interest Res No. 21-21

Mayor Brown (Proxy Estrich) made a motion to approve the items as recommended by the Governance Committee.

Director SanFilippo seconded the motion.

The Board voted 5-0 to approve Resolution Nos. 21-09 through 21-21.

New Business

None

Privilege of the Floor

Chair Pro Tem Floss opened the floor for public comment.

Hearing no comments, Chair Pro Tem Floss thanked the District CFO Geoffrey Pritchard for attending the meeting.

Interim Vice-Chair Jurasek made a motion to adjourn.

Director SanFilippo seconded the motion.

The Board voted 5-0 to adjourn.

The Board adjourned at 1:52 PM.